

September 2, 2008

2008 SEP -9 A 11:13

Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

MUR # 6007

Re: James Buhrmaster for Congress
C00447706 - Pre-Primary Filing

Dear Sirs and Madams:

I write to complain about the pre-primary filing made by James Buhrmaster, a Republican candidate for US Congress in New York's 21st district. I represented another Republican candidate for the same seat, Steven Vasquez, during a ballot access lawsuit. Buhrmaster sued to knock Vasquez off the ballot for alleged problems with his nominating petitions. Vasquez prevailed. Buhrmaster was represented in Court by attorney Tom Marcelle.

Buhrmaster's campaign finance filings show no expenditures for Marcelle's representation. There is no indication of any in-kind contribution or loan to the campaign. The Petition (attached) submitted by Marcelle to commence the lawsuit is dated July 23, 2008. The filing is meant to cover all spending up until August 20, 2008. The lawsuit was resolved via a day-long hearing on July 24, 2008, roughly 4 weeks before the end of the filing period.

Mr. Marcelle is a fine attorney, and I would expect his fees for such representation would exceed \$10,000. Mr. Buhrmaster should have reported this expense, one way or another, in his FEC filing. Please investigate this complaint as appropriate.

All of the foregoing is based upon my personal knowledge.

Very truly yours,


Warren Redlich

Sworn to before me this 2nd Day of September, 2008


Notary Public

Heather J Redlich
Albany County
02RE009012
Expires 09/22/2011

**SUPREME COURT
THE STATE OF NEW YORK
THE COUNTY OF ALBANY**

2008 SEI -4 A 11: 13

In the matter of the application of:

JAMES R. BUHRMASTER, candidate aggrieved,
Petitioner,

PETITION

- against -

Index No. **6288-08**

THE NEW YORK STATE BOARD OF ELECTIONS, NEIL W. KELLEHER (in his official capacity as a Commissioner of The New York State Board of Elections), DOUGLAS A. KELLNER (in his official capacity as a Commissioner of The New York State Board of Elections), EVELYN J. AQUILA (in her official capacity as a Commissioner of The New York State Board of Elections), AND HELENA MOSES DONOHUE (in her official capacity as a Commissioner of The New York State Board of Elections), AND STEVEN VASQUEZ, as candidate for Member of Congress for the 21st Congressional District of New York Respondents.

**TO THE SUPREME COURT OF THE STATE OF NEW YORK;
COUNTY OF ALBANY**

JAMES R. BUHRMASTER, the Petitioner herein, respectfully shows this Court and alleges the following, that:

1. Petitioner, **JAMES R. BUHRMASTER**, is a duly qualified candidate for the public office of Member of Congress for the 21st Congressional District of New York and brings this action pursuant to Article 16 of the Election Law as a candidate aggrieved.
2. At all times hereinafter mentioned, the Respondents, **NEIL W. KELLEHER, DOUGLAS A. KELLNER, EVELYN J. AQUILA AND HELENA MOSES DONOHUE**, were and still are the Commissioners of Election, and constitute the New York State Board of Elections.
3. On or about the 10th day of July, 2008, a petition (hereinafter "the petition" or "said petition") was filed with the New York State Board of Elections purporting to designate the Respondent, **STEVEN VASQUEZ**, as candidate for the Republican Party nomination for the public office of Member of Congress for the 21st Congressional District of New York in the Primary Election to be held September 9, 2008.
4. The petition contained two volumes and purported to contain 1,640 signatures of members of the Republican Party. The New York State Board of Elections is in the

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possession of the original petition and the accompanying Order to Show requests that they produce the same upon the hearing of this matter.

5. Pursuant to Section 6-136(g) of the New York State Election Law, said designation petitions must contain valid signatures of at least 1,250 of the duly enrolled Republican Party voters residing in the 21st Congressional District.
6. The aforesaid designating petition filed on behalf of the respondent candidate is invalid in that it fails to contain the necessary number of valid signatures.
7. Although the filed said designation petition purports to contain 1,640 signatures of members of the Republican Party. Who reside in the 21st District, there are less than 1,250 valid signatures and, as a result, said petition should be stricken.
8. 12 signatures should be struck because the voter signed the designating petition twice.
9. Attached hereto as Exhibit A is a list which identifies the invalid signatures mentioned in the above paragraph with reference to volume, page and line number.
10. Petitioner incorporates Exhibit A as part of his petition as if fully set forth herein.
11. 132 signatures should be struck because they are not members of the Republican Party who reside within the 21st District:
12. Attached hereto as Exhibit B is a list which identifies the invalid signatures mentioned in the above paragraph with reference to volume, page and line number.
13. Petitioner incorporates Exhibit B as part of his petition as if fully set forth herein.
14. 82 signatures should be struck because they were made after the voters already had signed the Petitioner's designation petition.
15. Attached hereto as Exhibit C is a list which identifies the invalid signatures mentioned in the above paragraph with reference to volume, page and line number.
16. Petitioner incorporates Exhibit C as part of his petition as if fully set forth herein.
17. 14 signatures should be struck because they are illegible and no registered or eligible voter could be identified.
18. Attached hereto as Exhibit D is a list which identifies the invalid signatures mentioned in the above paragraph with reference to volume, page and line number.
19. Petitioner incorporates Exhibit D as part of his petition as if fully set forth herein.

20. 75 signatures contained in Volume II at pages 48-56 should be struck because they were witnessed by a person not eligible to be a witness because he is not a member of the Republican Party.
21. 74 other signatures should be struck as invalid for various reasons. The Volume number, page number, and line number of these invalid signatures together with the reasons why the signatures are invalid are attached hereto as Exhibit B. Exhibit E lists identifies the invalid signatures mentioned in this paragraph with reference to volume, page and line number. Petitioner incorporates Exhibit E as part of his petition as if fully set forth herein.
22. Upon information and belief, petitioner believes that there are many other of signatures that invalid or defective and upon hearing of the matter, petitioner will present proof of these defects. This allegation together the supporting proof at the hearing is specifically permitted by the Order to Show Cause which initiated this action.

WHEREFORE, Petitioner requests this Honorable Court to invalidate the designating petition of Richard A STEVEN VASQUEZ purporting to designate the respondent candidate for the Republican Party nomination for the public office of Member of Congress for the 21st Congressional District of New York in a primary election to be held on September 9, 2008; and to grant such further and different relief that seems to the Court, in the exercise of its wisdom and discretion, just and proper.

Submitted on this 23rd day of July 2008,

Tom Marcelle
Tom Marcelle
Counsel for the Petitioner
2 E-Comm Square, 3rd Floor
Albany, New York 12207
(518) 427-1720

Attorney Verification

The undersigned affirms and verifies the foregoing is true, except as to matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true. The grounds for my belief are the examination of the papers in this case and conversations with witnesses, and events. The reason for Attorney Verification is that petitioner is not in the county where his attorney has his office.

Dated on this 23rd day of July 2008,

Tom Marcelle
Tom Marcelle
Counsel for the Petitioner
2 E-Comm Square, 3rd Floor
Albany, New York 12207
(518) 427-1720

Redlich was allowed to bring in some petition witnesses this morning out of order because of conflicts in the witnesses' schedule, said Buhrmaster spokesman Josh Hills. Buhrmaster's attorney, Albany County GOP attorney Tom Marcelle, will be presenting much of their case when arguments resume around 1:20 p.m.

Buhrmaster challenged Vasquez's position on the Sept. 9 primary ballot by saying 452 signatures aren't valid. Redlich said he's confident he can make up the 62 signatures Vasquez needs to stay in the race.

Posted in 21st CD Race I

2 Comments »

1. Saw that there were zero comments on this blog.

Who cares about Buhrmaster and Vasquez?
Sounds like a jelly company, or perhaps a new brand of South American coffee.

With Dave Paterson on the hunt for the "Red State Worker" there is real news today and we don't need clutter like this.

Comment by TUREader — July 30, 2008 @ 6:52 pm

HELP

How to comment

ABOUT US

Irene Jay Liu

Joined the Capitol Bureau in '08, a great year for politics ... a foodie, music junkie, and reader, recommendations welcome.



Casey Seiler

Team Leader for Democracy and Government and State Editor (the longest title in the

